S.B.CIVIL WRIT PETITION NO.7122/2005

Smt.Manju Kanwar
v.
State of Rajasthan & Ors.

DATE OF ORDER :: 21st July, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. B.S.Deora, for the petitioner.
Mr. Shyam Ladrecha, Addl.Govt.Advocate.

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The petitioner is a widow of Late Shri Samrath Singh who died on 23.12.2004 while holding the post of Gram Sewak in Panchayat Samiti Siwana District Barmer.

The grievance of the petitioner is that despite of the fact that she is widow of a substantive government servant and made a requisite application, the respondents have not accorded her appointment under the Rajasthan Compassionate Appointment of Dependants of Deceased Government Servants Rules, 1996 (hereinafter referred to as “the Rules of 1996”).

The factual matrix, necessary for adjudication of this petition for writ, is that Late Shri Samrath Singh, husband of the petitioner, entered in services of Gram Panchayat Samdari w.e.f. 22.7.1994 being appointed as Octroi Guard and his services stood regularised under an order dated 15.11.1995 w.e.f. 22.7.1994. On abolition of the octroi Shri Samrath Singh was declared surplus in the services of Gram

Panchayat Samdari and was absorbed as Gram Sewak in the services of Panchayat Samiti, Siwana by an order dated 28.2.2004 passed by the Chief Executive Officer, Zila Parishad, Barmer. By the order aforesaid the petitioner was kept on probation for a period of two years with a consolidated honorarium of Rs.1200/- per month.

After unfortunate death of Shri Samrath Singh on 23.12.2004 the petitioner submitted an application for appointment on compassionate grounds on 4.2.2005. No decision was taken by the respondents on that, hence the instant petition for writ is preferred.

A reply to the writ petition has been filed on behalf of the respondents stating therein that the issue with regard to appointment of the petitioner is pending consideration. It is also averred that the delay in deciding the matter is caused for the reason that the respondents are yet to determine the issue as to whether a widow of a probationer is entitled to be appointed on compassionate grounds.

Heard counsel for the parties.

There is no dispute that Shri Samrath Singh, husband of the petitioner, was employed with the respondents being a surplus employee of Gram Panchayat Samdari and the appointment was given under the

instructions of the Government of Rajasthan. The deceased employee was working against a permanent vacancy and in regular capacity though for a period of two years he was placed on probation with consolidated honorarium. Under the Rules of 1996 wards of substantive Government servants are entitled for appointment on compassionate grounds. There is no doubt that a probationer holds a substantive post and, therefore, a ward of a deceased probationer is also entitled for appointment under the Rules of 1996. The mode of payment of salary is no bearing while considering candidature of a person for appointment under the Rules of 1996.

In view of whatever discussed above I do not find any reason for not employing the petitioner on compassionate grounds in accordance with the Rules of 1996.

Accordingly, this petition for writ is allowed. The respondents are directed to appoint the petitioner on compassionate grounds on a suitable post within a period of one month from today.

(GOVIND MATHUR),J.

kkm/ps.